

## ARTICLE IV. - MASSAGE THERAPY

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[Sec. 22-141. - License; application; information to be given.](#)

Any person desiring to engage in the business, trade or profession of a masseur, shall, before engaging in that business, trade or profession, file an application for a license addressed to the city council. Such application shall be accompanied by a nonrefundable fee of \$100.00. Renewals must be done annually no later than January 1 with a renewal fee of \$25.00. The application shall be in writing and shall set forth the following:

- (1) The applicant and employees must be fingerprinted by the police department and a criminal history run on all persons employed at a massage therapy establishment. Fingerprints must be made at least 15 days prior to issuance of a license to allow for investigation of applicant and employees.
- (2) Name and address of applicant.
- (3) Name and address of any person having previously employed the applicant for a space of two years or longer.
- (4) Definition of service to be provided.
- (5) All criminal convictions other than misdemeanor traffic violations, including the dates of the convictions, nature of the crimes and place convicted.
- (6) If the applicant is a corporation, the address or addresses of the corporation as well as the names and addresses of the agents and employees of the corporation for a period of two years immediately prior to the filing of the application.
- (7) Qualifications must be plainly stated together with required exhibits attached to the application.
- (8) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit. Forms shall be provided by the tax clerk. (Code 1989, § 9-07-01; Ord. No. 02-02-26, 2-26-2002)

#### Sec. 22-142. - Qualifications.

Each applicant and all employees under this article, prior to making an application for a license to engage in the business, trade or profession of a masseur, must have the following qualifications and must furnish the following information when submitting an application:

- (1) The applicant and all employees must be at least 18 years of age and in case the applicant is a corporation, it must be created in or domesticated by the laws of the state.
- (2) The applicant must furnish a photostatic copy of a diploma earned by the applicant from a state certified school, representative of the fact that the applicant attended a course of study consisting of a curriculum of physical culture, massage, hydrotherapy, electrotherapy, hygiene, health service management and other related subjects. If the applicant is a corporation, then the employee or agent of the corporation, who is to be the manager of the establishment, must furnish a photostatic copy of the diploma of graduation as set forth above as well as a certified transcript.
- (3) The applicant and each employee must furnish a copy of identification such as a state drivers license/state issued id and social security card. Should the applicant be a corporation, it shall furnish a copy of identification such as a drivers license/state issued id and social security card for all its agents or employees actually engaged and working under the license.
- (4) The applicant must furnish proof of having obtained and maintained an average of 12 hours of continuing education per year since his diploma was received, in the field of massage therapy from an institution that provides a nationally recognized standard level of education in massage therapy training, i.e., one that follows the guidelines of the U.S. Department of Education, such as AMTA COMTAA approved/accredited training programs; or provide a copy of their current national certification.
- (5) Such other identification and information necessary to discover the truth of the matters required to be set forth in the application. (Code 1989, § 9-07-02; Ord. No. 02-02-26, 2-26-2002)

#### Sec. 22-143. - Issuance.

- (a) If the application required by this article is submitted in proper form and is approved by the city manager, then the business office is authorized to issue a business license to the applicant upon the payment of any business taxes due.
- (b) The city manager reserves the right to deny issuance of a license based on any information, which would be grounds for revocation or suspension under section 22-145 received during the application process. Any applicant so denied shall have the right to appeal such decision to the mayor and council.
- (c) A separate occupational tax license must be applied for and obtained upon issuance of a massage therapy license. (Code 1989, § 9-07-03; Ord. No. 02-02-26, 2-26-2002)

#### Sec. 22-144. - Record of treatments to be kept.

It shall be the duty of any person granted a license under this article to maintain correct and accurate records of the names and addresses of the persons receiving treatment at an establishment, the type of treatment administered, and the name of the person of the establishment administering the treatment. The records consisting of name, address and time of treatment shall be subject to inspection at any time by any license inspector or city police officer. (Code 1989, § 9-07-04; Ord. No. 02-02-26, 2-26-2002)

#### Sec. 22-145. - Grounds for suspension or revocation; notice; hearings; refund.

(a) A license granted under this article shall be subject to revocation or suspension. Whenever, in the opinion of the mayor and council, there is cause to revoke or suspend the license, a written notice of intention to revoke or suspend the license shall be furnished to the holder thereof. A hearing will be scheduled wherein the licensee may present his case before the mayor and council. The licensee shall receive five days' prior written notice of the time, date and place of any such hearing. After the hearing, the mayor and council may revoke or suspend the license if, in their discretion, revocation or suspension is in the best interest of the health, safety and welfare of the city. The license may be revoked or suspended upon one or more of the following grounds (but is not limited to such grounds):

- (1) The licensee is guilty of fraud in the practice of massage, or fraud or deceit in obtaining a license to practice massage therapy.
  - (2) The licensee is engaged in the practice of massage therapy under a false or assumed name, or is impersonating another practitioner of a like or different name.
  - (3) The licensee is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his duties.
  - (4) The licensee is guilty of fraudulent, false, misleading or deceptive advertising or practices.
  - (5) The licensee has been convicted of or has pled guilty or nolo contendere to a felony or to a misdemeanor involving moral turpitude or to any charge of a lascivious nature.
  - (6) The original application, or renewal thereof, contains materially false information; or the licensee has deliberately sought to falsify information contained therein.
  - (7) Noncompliance with any section of this article.
  - (8) Any violation of state or local laws or ordinances.
  - (9) Employees who have been convicted of or have pled guilty or no contendere to a crime of a sexual or lascivious nature.
- (b) The city manager is delegated the authority to suspend any license under this article for due cause in any emergency situation; and such suspension may be made effective immediately and remain in force until the next session of the municipal court.
- (c) When a license is so revoked, the city shall not be required to refund any portion of the business tax. (Code 1989, § 9-07-05; Ord. No. 02-02-26, 2-26-2002)

[Sec. 22-146.](#) - Patronage of massage establishments by minors.

- (a) Restricted. Persons under the age of 18 must have written consent from their parent or guardian prior to receiving treatment.
- (b) Duty of operator. It shall be the duty of the operator of a massage establishment to determine the age of the persons patronizing the massage establishment and to keep on file the original written consent form as required in subsection (a) of this section.
- (c) Violation. A violation of this section shall be grounds for revocation of the license of the massage establishment. (Code 1989, § 9-07-06; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-147. - Hours of operation.

No masseur or masseuse shall engage in the business or profession except within and between the hours of 7:00 a.m. and 9:00 p.m. local time; nor shall any operator of a massage establishment, establishment or business operate the same except within and between the aforesaid hours. (Code 1989, § 9-07-07; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-148. - Signed copy of article to be filed with license application.

All applicants must acknowledge this article by signing an oath of affirmation of receipt, understanding and commitment to comply with the provisions of this article. This sworn oath will be kept on file with the application by the tax clerk. (Code 1989, § 9-07-08; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-149. - Operating requirements; unlawful acts and restrictions.

- (a) The premises shall be kept clean, neat and sanitary and shall comply with all sanitary and health requirements of the state, the county and the city.
- (b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- (c) No alcoholic beverages shall be sold or provided to customers on the premises.
- (d) It shall be unlawful for any stand-alone massage service (those establishments not located within a professional's office, i.e., chiropractor, doctor etc.) to be carried on within any cubicle, room, booth or other area within a massage establishment, which is fitted with a door capable of being locked.
- (e) It shall be unlawful for any person in a massage establishment to place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage the genitals, pubic area, anus or perineum of any person, or the vulva or breasts of a female.
- (f) It shall be unlawful for any person owning, operating or managing a massage establishment to knowingly cause, allow or permit in or about such massage establishment any agent, employee or other person under his supervision or control to perform any acts prohibited under this section.
- (g) No masseur or masseuse, or employees shall wear swimsuits, lingerie or similar garments or garments which expose areas described in subsection (e) of this section.
- (h) All stand-alone massage establishments (those establishments not located within a professional's office, i.e., chiropractor, doctor, etc.) which apply for a license beginning January 1, 2002, must provide a reception area with adequate seating and immediate accessible entry and exit into and from the back office and area where the treatment rooms are located.
- (i) During normal business hours as listed in this article, no one other than a patient, patients legal guardian(s) and employees of the massage establishment will be allowed beyond the reception area. (Code 1989, § 9-07-09; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-150. - Inspections authorized.

The code enforcement officer or his authorized representatives shall and the police may, from time to time, make inspections during regular business hours of each massage business establishment for the

purposes of determining compliance with the provisions of this article. It shall be unlawful for any licensee under this article to fail to allow the inspection officer or police officer access to the premises or to hinder the officer in any manner. (Code 1989, § 9-07-10; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-151. - Posting of license; transfer of license.

- (a) Every person obtaining a license under this article shall display such certificate in a prominent place.
- (b) No license shall be transferable. (Code 1989, § 9-07-11; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-152. - Reapplication after denial or revocation.

Any licensee under this article who has his license application denied or his license revoked shall be disqualified from reapplying for such a license for 12 months immediately following the revocation or denial.

(Code 1989, § 9-07-12; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-153. - Change of location of business.

No licensee under this article shall change the location of the business without applying for and receiving a new license for such location from the business license office. (Code 1989, § 9-07-13; Ord. No. 02-02-26, 2-26-2002)

Secs. 22-154—22-174. - Reserved.